REMARKS/ARGUMENTS

Claims 1-8, and 11-51 are pending in the present application. Claim 6 has been amended to correct a typographical error noted by the Examiner. No claims have been added or canceled. Applicants have carefully considered the cited art and the Examiner's comments, and believe the claims patentably distinguish over the cited art and are allowable in their present form. Reconsideration of the rejection is, accordingly, respectfully requested in view of the following comments.

I.   35 U.S.C. § 102, Anticipation

The Examiner has rejected claims 1-2, 23-24, 28, and 47-48 under 35 U.S.C. § 102(b) as being anticipated by Papadopoulos (U.S. Patent No. 6,099,320). This rejection is respectfully traversed.

In rejecting the claims, the Examiner states:

> Regarding Claims 1, 23, 28, and 47, Papadopoulos discloses a bus system; a communication unit connected to the bus system, a storage device connected to the bus system. See FIG. 15. Papadopoulos discloses identifying presentation of the test questions on the data processing system. See Col.6: 6-12. Papadopoulos discloses responsive to the presentation of the test questions on the data processing system, monitoring test question timing data in which the test question timing data represents an elapsed time since an answered question from the test questions has been presented, wherein the elapsed time is an amount of time in attempting to answer a test question: "After a question is posed, both an analog and a digital timer are displayed, showing the time remaining for answering the question..." (Col.6: 15-17). Papadopoulos discloses generating an alert (i.e., changing from yellow to red) after the test question timing data exceeds a threshold (i.e., expires), wherein the alert apprises a test taker that the elapsed time is excessive for the test question. See Col.6: 15-22.

Office Action dated March 28, 2006, pages 2-3.

Claim 1 of the present application is as follows:

> 1.   A computer-implemented method for monitoring responses to test questions presented in a data processing system, the method comprising the computer implemented steps of:
> identifying presentation of the test questions on the data processing system;
> responsive to the presentation of the test questions on the data processing system, monitoring test question timing data in which the test question timing data represents an elapsed time since an answered question from the test questions has been presented, wherein the elapsed time is an amount of time in attempting to answer a test question; and
> generating an alert after the test question timing data exceeds a threshold, wherein the alert apprises a test taker that the elapsed time is excessive for the test question.

A prior art reference anticipates a claimed invention under 35 U.S.C. § 102 only if every element of the claimed invention is identically shown in that single prior art reference, arranged as they are in the claims. *In re Bond*, 910 F.2d 831, 832, 15 U.S.P.Q.2d 1566, 1567 (Fed. Cir. 1990). All limitations of a claimed invention must be considered when determining patentability. *In re Lowry*, 32 F.3d 1579, 1582, 32 U.S.P.Q.2d 1031, 1034 (Fed. Cir. 1994). Anticipation focuses on whether a claim reads on the product or process a prior art reference discloses, not on what the reference broadly teaches. *Kalman v. Kimberly-Clark Corp.*, 713 F.2d 760, 218 U.S.P.Q. 781 (Fed. Cir. 1983).

Applicants respectfully submit that Papadopoulos does not identically show every element of the claimed invention arranged as they are in the claims; and, accordingly, does not anticipate the claims. With respect to claim 1, in particular, Papadopoulos does not teach or suggest "responsive to the presentation of the test questions on the data processing system, monitoring test question timing data in which the test question timing data represents an elapsed time since an answered question from the test questions has been presented, wherein the elapsed time is an amount of time in attempting to answer a test question", and also does not teach or suggest "generating an alert after the test question timing data exceeds a threshold, wherein the alert apprises a test taker that the elapsed time is excessive for the test question."

Papadopoulos is directed to an integrated system for administering a computer-based training program. The system in Papadopoulos is designed to provide a non-intimidating environment that is open and relaxing to prepare the student to learn rapidly (see Abstract). Papadopoulos discloses that courses offered to students in the system are designed and organized by "authors".

The Examiner refers to various recitations in Column 6 of Papadopoulos as disclosing the present invention. Column 6, lines 6-33 of Papadopoulos is as follows:

> The author has the ability to place tests at different points of the course. For example, the author may place tests after every screen to test that the student has learned the information presented on each screen. The tests are typically made up of questions that invite a student response that requires a minimum amount of typing, such as true or false questions or questions that require a number for the answer. Such questions can be easily interpreted by the computer. The student will have a time limit, typically 20 seconds, for answering each question on a test. After a question is posed, both an analog and a digital timer are displayed, showing the time remaining for answering the question and changing from green to yellow to red as the time expires. If the student does not pass the test within the allowed time, the screen containing the material that is being reviewed is redisplayed and the student has another opportunity to learn the information. The student is sent back after failing a test question as often as necessary until the student learns the information and can answer all questions correctly.
> After each section of the training material, the author can place an

overview of what was presented in that section. (FIG. 11) There can also be tests after a section of material is presented. If the student answers any of the questions incorrectly on the section test, the screen re-displays the page at which the information required to answer the question is introduced. This provides the student another opportunity to learn the material, before returning to the section test.

The above recitation in Papadopoulos discloses that when taking a test, the student will have "a time limit, typically 20 seconds, for answering each question on a test". The patent then states: "After a question is posed, both an analog and a digital timer are displayed, showing the time remaining for answering the question and changing from green to yellow to red as the time expires" (emphasis added). Papadopoulos thus teaches that the timer therein measures a period of time starting after a question is posed. Claim 1, however, recites that the timing data "represents an elapsed time since an answered question from the test questions has been presented". In other words, in the present invention as recited in claim 1, the time for answering a question that is measured is the time since an answered question of the test has been presented. In Papadopoulos, the time that is measured is the time after a question to be answered is posed. These are different time periods, and, accordingly, Papadopoulos does not disclose or suggest "responsive to the presentation of the test questions on the data processing system, monitoring test question timing data in which the test question timing data represents an elapsed time since an answered question from the test questions has been presented, wherein the elapsed time is an amount of time in attempting to answer a test question" as recited in claim 1; and does not anticipate claim 1.

Papadopoulos also does not disclose or suggest "generating an alert after the test question timing data exceeds a threshold, wherein the alert apprises a test taker that the elapsed time is excessive for the test question" as recited in claim 1. As indicated above, Papadopoulos discloses: "After a question is posed, both an analog and a digital timer are displayed, showing the time remaining for answering the question and changing from green to yellow to red as the time expires" (emphasis added). In Papadopoulos, the alert simply apprises the test taker of how much time is remaining in the time period allotted for answering the question (i.e., 20 seconds). This is not the same as generating an alert "that the elapsed time is excessive for the test question" as recited in claim 1. In Papadopoulos, only a specified allotted time is given to answer a question and no more. In fact, in the above recitation Papadopoulos states: "If the student does not pass the test within the allowed time, the screen containing the material that is being reviewed is redisplayed and the student has another opportunity to learn the information". In Papadopoulos, a test taker cannot exceed the allotted time for answering a question; and, therefore, the time taken for answering a question cannot be excessive. Therefore, it is clear that Papadopoulos does not disclose, and, in fact, teaches away from "generating an alert after the test question timing data

exceeds a threshold, wherein the alert apprises a test taker that the elapsed time is excessive for the test question" as required by claim 1. Papadopoulos, accordingly, does not anticipate claim 1 for this reason, as well.

For at least all of the above reasons, claim 1 is not anticipated by Papadopoulos and patentably distinguishes over Papadopoulos in its present form.

Independent claims 23, 28 and 47 recite similar subject matter as claim 1, and are not anticipated by Papadopoulos for similar reasons as discussed above with respect to claim 1. Claims 2, 24 and 48 depend from and further restrict claims 1, 23 and 47, respectively, and are also not anticipated by Papadopoulos, at least by virtue of their dependency.

Therefore, the rejection of claims 1-2, 23-24, 28, and 47-48 under 35 U.S.C. § 102 has been overcome.

II.   35 U.S.C. § 103. Obviousness

The Examiner has rejected claims 3, 6, 8, 11-12, 14-21, 25-26, 29, 31-35, 37-44, 46, and 51 under 35 U.S.C. § 103(a) as being unpatentable over Papadopoulos (U.S. Patent No. 6,099,320) in view of Sugimoto (U.S. Patent No. 6,755,661 B2). This rejection is respectfully traversed.

With respect to claims 3 and 25, the Examiner cites Sugimoto as disclosing generating an alert using an applet. Claims 3 and 25, however, depend from and further restrict claims 1 and 24, respectively. Sugimoto does not supply the deficiencies in Papadopoulos as described above, and claims 3 and 25 should be allowable in their present form, at least by virtue of their dependency.

With respect to independent claims 6, 29, 46 and 51, and dependent claims 32-33, the Examiner asserts that Papadopoulos discloses wherein the user can send and receive an instant message, and cites Sugimoto as disclosing administering a test to a remotely located user.

Initially, Applicants respectfully disagree that Papadopoulos discloses sending and receiving instant messages. The Examiner refers to Col. 6, lines 28-32 of Papadopoulos as disclosing this feature. Col. 6, lines 28-32 is as follows:

> If the student answers any of the questions incorrectly on the section test, the screen re-displays the page at which the information required to answer the question is introduced.

The above recitation says nothing about instant messaging, either sending an instant message or receiving an instant message. The recitation only states that a screen can re-display a page. Neither Papadopoulos nor Sugimoto discloses instant messaging. Only the present application contains any such disclosure. Therefore, independent claims 6, 29, 46 and 51, and dependent claims 32-33 are not obvious over Papadopoulos in view of Sugimoto and patentably distinguish thereover in their present form.

In addition, with respect to claim 51, Sugimoto also does not supply the deficiencies in Papadopoulos discussed in detail above with respect to claim 1. Claim 51, accordingly, patentably distinguishes over Papadopoulos in view of Sugimoto for this reason as well.

With respect to dependent claims 11, 12, 14-20, 34, 35 and 37-43, Sugimoto does not supply the deficiencies discussed above in the independent claims from which these claims depend; and these claims patentably distinguish over the cited art in their present form, at least by virtue of their dependency.

Therefore, the rejection of claims 3, 6, 8, 11-12, 14-21, 25-26, 29, 31-35, 37-44, 46, and 51 under 35 U.S.C. § 103 has been overcome.

III.   35 U.S.C. § 103; Obviousness

The Examiner has rejected claims 4, 26, and 49 under 35 U.S.C. § 103(a) as being unpatentable over Papadopoulos (U.S. Patent No. 6,099,320) in view of Walker et al. (U.S. Patent No. 6,093,026). This rejection is respectfully traversed.

Walker is cited as teaching the concept of billing a client for monitoring the presentation of test questions. Claims 4, 26 and 49, however, depend from and further restrict claims 1, 23 and 47, respectively. Walker does not supply the deficiencies in Papadopoulos as described above, and claims 4, 26 and 49 patentably distinguish over the cited art in their present form at least by virtue of their dependency.

Therefore, the rejection of claims 4, 26, and 49 under 35 U.S.C. § 103 has been overcome.

IV.   35 U.S.C. § 103, Obviousness

The Examiner has rejected claims 5, 27, and 50 under 35 U.S.C. § 103(a) as being unpatentable over Papadopoulos (U.S. Patent No. 6,099,320). This rejection is respectfully traversed.

Claim 5 is as follows:

> 5.   The computer-implemented method of claim 1, wherein the test questions are part of a test and further comprising:
> storing an identification of a number of test takers for the test; and
> billing a client based on the number of test takers for the test.

The Examiner asserts that "the concept of billing a client based on the quantity of a product or services provided to the client is an old and well known in the art". Even if the Examiner is correct, claim 5 specifically requires that an identification of a number of test takers be stored, and that a client is billed based on the number of test takers taking the test. Papadopoulos does not disclose or suggest the subject

matter recited in claim 5, and claim 5, as well as corresponding claims 27 and 50, patentably distinguish over Papadopoulos in their own right as well as by virtue of their dependency.

Therefore, the rejection of claims 5, 27, and 50 under 35 U.S.C. § 103 has been overcome.

V.   35 U.S.C. § 103, Obviousness

The Examiner has rejected claims 7, 13, 30, and 36 under 35 U.S.C. § 103(a) as being unpatentable over Papadopoulos (U.S. Patent No. 6,099,320), Sugimoto (U.S. Patent No. 6,755,661 B2) as applied to claims 6 and 29 above, and further in view of Walker et al. (U.S. Patent No. 6,093,026). This rejection is respectfully traversed.

Walker is cited with respect to claims 7 and 30 as disclosing billing a test developer for administration of a test to a remotely located user, and with respect to claims 13 and 36 as disclosing implementing a test by a test administration system that is operated by a different entity than the test developer. Claims 7, 13, 30 and 36 depend from and further restrict one of independent claims 6 and 29. Walker does not supply the deficiencies of Papadopoulos or Sugimoto as described above, and claims 7, 13, 30 and 36 patentably distinguish over the cited art in their present form, at least by virtue of their dependency.

Therefore, the rejection of claims 7, 13, 30, and 36 under 35 U.S.C. § 103 has been overcome.

VI.   35 U.S.C. § 103, Obviousness

The Examiner has rejected claims 22 and 45 under 35 U.S.C. § 103(a) as being unpatentable over Papadopoulos (U.S. Patent No. 6,099,320), Sugimoto (U.S. Patent No. 6,755,661 B2) as applied to claims 6 and 29 above, and further in view of Hansel (U.S. Patent No. 3,292,276). This rejection is respectfully traversed.

Hansel is cited as disclosing storing of timing data for a test question to update timing data for the user for use in future tests. Claims 22 and 45, however, depend from and further restrict one of independent claims 6 and 29. Hensel does not supply the deficiencies of Papadopoulos and Sugimoto as described above, and claims 22 and 45 patentably distinguish over the cited art in their present form, at least by virtue of their dependency.

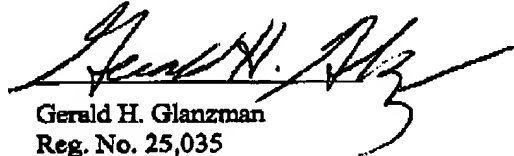Therefore, the rejection of claims 22 and 45 under 35 U.S.C. § 103 has been overcome.

VII. Conclusion

For at least all the above reasons, it is respectfully urged that claims 1-8, and 11-51 are allowable in their present form, and that this application is now in condition for allowance. It is, accordingly, respectfully requested that the Examiner so find and issue a Notice of Allowance in due course.

The Examiner is invited to call the undersigned at the below-listed telephone number if in the opinion of the Examiner such a telephone conference would expedite or aid the prosecution and examination of this application.

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Respectfully submitted,

Gerald H. Glanzman
Reg. No. 25,035
Yee & Associates, P.C.
P.O. Box 802333
Dallas, TX 75380
(972) 385-8777
Attorney for Applicants